

By Mezger

H.B. No. 2174

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, operations, financing, and dissolution of the Uvalde County Surface and Groundwater Conservation and Reclamation District.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE I. GENERAL PROVISIONS

Section 1.01. CREATION AND JURISDICTION OF DISTRICT. There is created within the boundaries of Uvalde County, Texas, a district to be known as the Uvalde County Surface and Groundwater Conservation and Reclamation District. The district is created under the authority of Article XVI, Section 59, of the Texas Constitution, and shall have the authority to exercise the powers and duties provided in this Act over both surface water and groundwater.

Sec. 1.02. DEFINITIONS. In this Act:

(1) "District" means the Uvalde County Surface and Groundwater Conservation and Reclamation District.

(2) "Board" means the board of directors of the district.

(3) "Director" means a member of the board of directors of the district.

Sec. 1.03. OWNERSHIP OF GROUNDWATER. The ownership and rights of the owner of the land and his lessees and assigns in groundwater are hereby recognized, and nothing in this Act shall be construed as depriving or divesting the owner or his lessees and

1 assigns of the ownership or rights, subject to the rules  
2 promulgated by a district under this Act.

3 Sec. 1.04. SURFACE WATER LAWS NOT APPLICABLE. Except as  
4 specifically provided in this Act, the laws and administrative  
5 rules relating to the use of surface water do not apply to  
6 groundwater.

7 ARTICLE II. ADMINISTRATIVE PROVISIONS

8 Sec. 2.01. BOARD OF DIRECTORS. The governing body of the  
9 district is the board of directors, which shall consist of five  
10 directors.

11 Sec. 2.02. QUALIFICATIONS FOR DIRECTOR. To be qualified for  
12 election as a director, a person must be a resident of the state,  
13 own land subject to taxation in the district, and be at least 21  
14 years of age.

15 Sec. 2.03. ELECTION OF DIRECTORS; TERM OF OFFICE. (a) An  
16 election shall be held in the district on the first Saturday in  
17 April following the creation of the district to elect five  
18 directors.

19 (b) The three directors receiving the highest number of  
20 votes shall serve as directors for two years, and the other two  
21 directors shall serve for one year.

22 (c) At the second election of directors, two directors shall  
23 be elected to serve for two years.

24 (d) After the second election of directors, an election  
25 shall be held each year with two directors elected one year and  
26 three the next year in continuing sequence.

27 (e) Until directors are elected and qualified as provided in

1 Subsection (a) of this section, five temporary directors shall  
2 serve as directors of the district. Five temporary directors shall  
3 be appointed by the Commissioners Court of Uvalde County within  
4 five days after the effective date of this Act.

5 Sec. 2.04. APPLICATION TO GET ON BALLOT. A candidate for  
6 the office of director or other elective office may file an  
7 application with the secretary of the board to have his name  
8 printed on the election ballot. The application must be signed by  
9 the applicant or by at least 10 qualified electors of the district  
10 and must be filed at least 20 days before the date of the election.

11 Sec. 2.05. ORGANIZATION OF BOARD. After the district is  
12 created and the directors have qualified, the board shall meet,  
13 elect a chairman, vice chairman, and secretary, and begin the  
14 discharge of its duties.

15 Sec. 2.06. DIRECTOR'S OATH. Each director shall take the  
16 oath of office prescribed by law for county commissioners.

17 Sec. 2.07. DIRECTOR'S BOND. (a) Each director shall  
18 execute a good and sufficient bond for \$5,000, payable to the  
19 district, conditioned on the faithful performance of his duties.

20 (b) After the creation of the district and the qualification  
21 of the first board of directors, all bonds required to be given by  
22 a director or other officer of the district are subject to the  
23 approval of the board.

24 (c) The County Clerk of Uvalde County shall record each bond  
25 in the bond records of the county. The bond also shall be recorded  
26 in a bond record in the district office and filed for safekeeping  
27 in the depository of the district.

1           Sec. 2.08. COMPENSATION OF DIRECTORS. (a) A director is  
2 entitled to receive compensation of not more than \$25 a day for  
3 each day he actually spends performing his duties as a director,  
4 but the fees shall not be more than \$100 for any one month.

5           (b) Before a director may receive compensation for his  
6 services, he shall file with the secretary a verified statement  
7 showing the number of days actually spent in the service of the  
8 district. The statement shall be filed on the last day of the  
9 month, or as soon after that time as possible.

10          Sec. 2.09. OFFICERS; QUORUM. (a) The chairman is the chief  
11 executive officer of the district and presides at all meetings of  
12 the board. The vice chairman shall act as chairman in case of the  
13 absence or disability of the chairman. The secretary is secretary  
14 of the board and is responsible for seeing that all records and  
15 books of the district are properly kept. In the case of the  
16 absence or inability of the secretary to act, the board shall  
17 select a secretary pro tem.

18          (b) Three directors constitute a quorum for a meeting, and a  
19 concurrence of three is sufficient for transacting business of the  
20 district except letting construction contracts and drawing warrants  
21 on the depository for payment of the contracts, which require the  
22 concurrence and signature of four directors. Warrants to pay  
23 current expenses, salaries, and accounts may be drawn by an officer  
24 or employee designated by standing order of the board entered in  
25 the minutes when these accounts have been contracted and ordered  
26 paid by the directors.

27          Sec. 2.10. VACANCIES. (a) All vacancies on the board and

1 in other offices shall be filled for the unexpired term by  
2 appointment of the board.

3 (b) If the number of directors is reduced to fewer than  
4 three, the vacancies shall be filled by special election ordered by  
5 the remaining members of the board.

6 Sec. 2.11. GENERAL MANAGER. The board may employ a general  
7 manager and give him full authority in the management and operation  
8 of the affairs of the district subject only to the orders of the  
9 board.

10 Sec. 2.12. DISTRICT TAX ASSESSOR AND COLLECTOR. The board  
11 may appoint a person tax assessor and collector for the district.

12 Sec. 2.13. TAX ASSESSOR AND COLLECTOR'S BOND. The tax  
13 assessor and collector shall execute a good and sufficient bond for  
14 \$5,000, signed by at least two sufficient sureties or a surety  
15 company and approved by the board. The bond shall be conditioned  
16 on the faithful performance of his duties and on his paying to the  
17 depository all money or other things of value that he receives in  
18 his capacity as tax assessor and collector.

19 Sec. 2.14. DEPUTY TAX ASSESSOR AND COLLECTOR. (a) The  
20 board may appoint one or more deputies to assist the tax assessor  
21 and collector for a period not to exceed one year.

22 (b) Each deputy may be required to furnish a bond with  
23 similar conditions to the bond required by the tax assessor and  
24 collector.

25 Sec. 2.15. COMPENSATION OF TAX ASSESSOR AND COLLECTOR AND  
26 DEPUTIES. The board shall fix the compensation of the tax assessor  
27 and collector and each deputy.

1           Sec. 2.16. ADDITIONAL DUTIES. The board may require the tax  
2   assessor and collector to perform duties other than those specified  
3   in this Act.

4           Sec. 2.17. EMPLOYEES OF THE DISTRICT. The board shall  
5   employ all persons necessary for the proper handling of the  
6   business and operation of the district, its plant and improvements.  
7   It may employ attorneys, bookkeepers, engineers, laborers, and a  
8   civil engineer, who shall be the district engineer.

9           Sec. 2.18. EMPLOYEES' COMPENSATION AND TERMS OF EMPLOYMENT.  
10   The board shall determine the term of employment and compensation  
11   to be paid the general manager and all employees. The general  
12   manager and all employees may be removed by the board.

13          Sec. 2.19. OFFICERS' AND EMPLOYEES' BOND. (a) The board  
14   shall require an officer or employee who collects, pays, or handles  
15   any funds of the district to furnish good and sufficient bond,  
16   payable to the district, to safeguard the district. The bond shall  
17   be conditioned on the faithful performance of his duties and on  
18   accounting for all funds and property of the district coming into  
19   his hands.

20          (b) The bond may be signed by a surety company authorized to  
21   do business in the state.

22          Sec. 2.20. DISTRICT OFFICE. The board shall maintain a  
23   regular office for conducting the business of the district. The  
24   office shall be located inside the district.

25          Sec. 2.21. MEETINGS. (a) The board shall hold regular  
26   meetings at the district office at least once each month and may  
27   hold meetings at other times when required for the business of the

1 district.

2 (b) Any person residing in or owning taxable property in the  
3 district may attend any meeting of the board and may present in an  
4 orderly manner matters for the board's consideration.

5 Sec. 2.22. MINUTES AND RECORDS OF THE DISTRICT. The board  
6 shall keep a true and complete account of all its meetings and  
7 proceedings, and shall preserve its minutes, contracts, records,  
8 notices, accounts, receipts, and records of all kinds in a  
9 fireproof vault or safe. All minutes, contracts, records, notices,  
10 accounts, receipts, and other records are the property of the  
11 district to be kept in the district office and subject to public  
12 inspection.

13 Sec. 2.23. CONTRACTS. District contracts shall be executed  
14 by the board in the name of the district.

15 Sec. 2.24. SUITS. The district may sue and be sued in the  
16 courts of this state in the name of the district by and through its  
17 board. All courts shall take judicial notice of the creation of  
18 the district and of its boundaries.

19 Sec. 2.25. PAYMENT OF JUDGMENT AGAINST DISTRICT. Any court  
20 in the state rendering judgment for debt against a district may  
21 order the board to levy, assess, and collect taxes or assessments  
22 to pay the judgment.

23 Sec. 2.26. DISTRICT ELECTIONS. District elections are  
24 governed by and shall be held in the manner provided in Subchapter  
25 E, Chapter 51, Water Code.

26 ARTICLE III. GENERAL POWERS AND DUTIES

27 Sec. 3.01. PROVISIONS APPLICABLE TO BOTH SURFACE AND

1 GROUNDWATER. The provisions of this article apply to both surface  
2 and groundwater.

3 Sec. 3.02. POWERS OF DISTRICT. The district has the  
4 functions, powers, authority, rights, and duties which will permit  
5 the accomplishment of the purposes for which it is created,  
6 including the investigation and, in case a plan for improvements is  
7 adopted, the construction, maintenance, and operation of necessary  
8 improvements and the acquisition of water rights and all other  
9 properties and everything considered necessary, incident, or  
10 helpful to accomplish by any practicable mechanical means any one  
11 or more of the objects authorized for the district, subject only to  
12 the restrictions imposed by the constitutions of Texas or the  
13 United States. The district also may acquire property deemed  
14 necessary for the extension or enlargement of the improvements or  
15 service of the district.

16 Sec. 3.03. ADOPTING RULES. A district may adopt reasonable  
17 rules to:

18 (1) secure and maintain safe, sanitary, and adequate  
19 plumbing installations, connections, and appurtenances as  
20 subsidiary parts of sanitary sewer systems;

21 (2) preserve the sanitary condition of all water controlled  
22 by the district;

23 (3) prevent waste or the unauthorized use of water;

24 (4) regulate residence, hunting, fishing, boating, and  
25 camping, and all recreational and business privileges on any body  
26 or stream of water, or any body of land, or any easement owned or  
27 controlled by the district;



1           (5) provide for conserving, preserving, protecting,  
2 recharging, and preventing waste of the groundwater of a  
3 groundwater reservoir or its subdivision; and

4           (6) carry out any other powers and duties under this Act.

5           Sec. 3.04. RULES: PUBLICATION, EFFECTIVE DATE. A brief  
6 resume of each rule shall be published once a week for two  
7 consecutive weeks in one or more newspapers to give circulation  
8 within the district. No rule may be made effective until at least  
9 14 days have elapsed after the date of the first publication.

10          Sec. 3.05. ENFORCEMENT OF RULES. The district may enforce  
11 its rules by injunction, mandatory injunction, or other appropriate  
12 remedy in a court of competent jurisdiction.

13          Sec. 3.06. RIGHT TO ENTER LAND. The board, the district  
14 engineer, and the employees of the district may enter any land  
15 inside or outside the district to make surveys for contemplated  
16 improvements and to attend to any business of the district.

17          Sec. 3.07. EXPENSE OF RELOCATION OF FACILITIES. If the  
18 district requires the relocation, raising, lowering, rerouting, or  
19 change in grade or alteration in the construction of any railroad,  
20 electric transmission, telegraph or telephone lines, conduits,  
21 poles, properties, or facilities, or pipelines in the exercise of  
22 the power of eminent domain or police power or any other power, all  
23 the relocation, raising, lowering, rerouting, or changes in grade  
24 or alteration of construction shall be the sole expense of the  
25 district. The term "sole expense" means the actual cost of  
26 relocation, raising, lowering, rerouting, or change in grade or  
27 alteration of construction to provide comparable replacement

1 without enhancement of facilities, after deducting the net salvage  
2 value derived from the old facility.

3 Sec. 3.08. SALE OF PROPERTY NOT REQUIRED FOR DISTRICT'S  
4 PLANS. The board may sell at a public or private sale any property  
5 or land owned by the district which is not required to carry out  
6 the plans of the district.

7 Sec. 3.09. NOTICE OF SALE OF PROPERTY NOT REQUIRED FOR  
8 DISTRICT'S PLANS. Before either a public or a private sale of  
9 property not required for the district's plans, the district shall  
10 give notice of the intent to sell by publishing notice once a week  
11 for two consecutive weeks in one or more newspapers with general  
12 circulation in the district.

13 Sec. 3.10. SALE OF PROPERTY NOT ACQUIRED TO CARRY OUT THE  
14 PLANS OF THE DISTRICT. The board may sell property bid in by it at  
15 any sale under foreclosure of its tax lien or of its lien for  
16 charges or assessments, or any property acquired by it other than  
17 for the purpose of carrying out the plans of the district, without  
18 formally determining that the property is not required to carry out  
19 the plans of the district, without giving notice of the intent of  
20 the district to sell the property.

21 Sec. 3.11. EMINENT DOMAIN. The district may exercise the  
22 power of eminent domain as provided in Title 52, Revised Civil  
23 Statutes of Texas, 1925, as amended, to acquire property as  
24 authorized in this Act.

25 ARTICLE IV. POWERS AND DUTIES RELATING  
26 TO SURFACE WATER

27 Sec. 4.01. APPLICATION OF ARTICLE. The provisions of this

1 article apply only to surface water.

2 Sec. 4.02. GENERAL AUTHORITY. (a) The district, in  
3 handling the surface water of the district, may provide for:

4 (1) the control, storage, preservation, and distribution of  
5 its water and floodwater and the water of its rivers and streams  
6 for irrigation, power, and all other useful purposes;

7 (2) the reclamation and irrigation of its arid, semiarid,  
8 and other land which needs irrigation;

9 (3) the reclamation, drainage, conservation, and development  
10 of its forests, water, and hydroelectric power;

11 (4) the navigation of its water;

12 (5) the control, abatement, and change of any shortage or  
13 harmful excess of water;

14 (6) the protection, preservation, and restoration of the  
15 purity and sanitary condition of water within the district; and

16 (7) the preservation and conservation of all natural  
17 resources of the district.

18 (b) The purposes stated in Subsection (a) of this section  
19 may be accomplished by any practical means.

20 Sec. 4.03. ACQUISITION OF PROPERTY. (a) The district may  
21 acquire the land material, borrow and waste ground, rights-of-way,  
22 easements, or other property by gift, grant, purchase, or  
23 condemnation.

24 (b) The district may acquire either the fee simple title to  
25 or an easement on all land, public or private, located inside or  
26 outside the district.

27 (c) The district may require the title to or an easement on

1 property other than land held in fee.

2 Sec. 4.04. PLANNING. The board may make investigations and  
3 plans necessary to the operation of the district and the  
4 construction of improvements.

5 Sec. 4.05. CONSTRUCTION OF IMPROVEMENTS. The district may  
6 construct all works and improvements necessary:

7 (1) for the prevention of floods;

8 (2) for the irrigation of land in the district;

9 (3) for the drainage of land in the district, including  
10 drainage ditches or other facilities for drainage;

11 (4) for the construction of levees to protect the land in  
12 the district from overflow;

13 (5) to alter land elevations where correction is needed; and

14 (6) to supply water for municipal uses, domestic uses, power  
15 and commercial purposes, and all other beneficial uses or controls.

16 Sec. 4.06. PURCHASE OF MACHINERY AND SUPPLIES. The board  
17 may purchase machinery, materials, and supplies needed in the  
18 construction, operation, maintenance, and repair of district  
19 improvements.

20 Sec. 4.07. CONSTRUCTING BRIDGES AND CULVERTS ACROSS AND OVER  
21 COUNTY AND PUBLIC ROADS. The district shall build necessary  
22 bridges and culverts across and over district canals, laterals, and  
23 ditches which cross county or public roads. Funds of the district  
24 shall be used to construct the bridges and culverts.

25 Sec. 4.08. POWER TO CONTRACT. The district may enter into a  
26 contract for the use by another of its water, power, facilities, or  
27 service, either inside or outside the district, except that a

1 contract may not be made which impairs the ability of the district  
2 to serve lawful demands for service within the district.

3 Sec. 4.09. INVESTIGATION AND REPORT OF ENGINEER. (a) The  
4 district engineer shall make a thorough study and investigation of  
5 all plans of the district and make and file in the district office  
6 a report on all plans for construction of plants and improvements.

7 (b) A contract for more than \$20,000 may not be made by the  
8 district unless the district has a district engineer who has made a  
9 proper study and report on it.

10 Sec. 4.10. CONTRACTS FOR MATERIALS, MACHINERY, CONSTRUCTION,  
11 ETC., FOR MORE THAN \$10,000. (a) With the exception of projects  
12 under a contract with the United States, the board shall let a  
13 contract for more than \$10,000 for the purchase of materials,  
14 machinery, and all things to constitute the plant, works,  
15 facilities, and improvements of the district or for construction as  
16 specified in Subsections (b)-(d) of this section.

17 (b) The board shall advertise the letting of a contract,  
18 including the general conditions, time, and place of opening of  
19 sealed bids. The notice shall be published in one or more  
20 newspapers with general circulation in the state, and one or more  
21 newspapers published in the county to give general circulation in  
22 the district. The notice shall be published once a week for three  
23 consecutive weeks prior to the date that the bids are opened, and  
24 the first publication shall be at least 21 days before the opening  
25 of sealed bids.

26 (c) A contract may cover all the improvements to be provided  
27 by the district, or the various elements of the improvements may be

1 segregated for the purpose of receiving bids and awarding  
2 contracts.

3 (d) A contract may provide for the payment of a total sum  
4 which is the completed cost of the improvement or may be based on  
5 bids to cover cost of units of the various elements entering into  
6 the work as estimated and approximately specified by the district's  
7 engineers.

8 (e) A contract may be let and awarded in any other form or  
9 composite of forms and to any responsible person or persons which,  
10 in the board's judgment, will be most advantageous to the district  
11 and result in the best and most economical completion of the  
12 district's proposed plant, improvements, facilities, and works.

13 (f) A contract is not valid if the total sum required to  
14 fully complete the proposed plant, works, facilities, and  
15 improvements, as stipulated by the district's adopted plans,  
16 exceeds the total sum estimated by the district's engineer in his  
17 plans, adopted by the district prior to the election for the  
18 authorization of bonds sufficient to pay the completed cost of all  
19 elements of the proposed works, other than the cost of land,  
20 easements, and other property necessary to be acquired under the  
21 power of eminent domain.

22 Sec. 4.11. CONSTRUCTION BIDS. (a) A person who desires to  
23 bid on proposed construction work shall submit to the board a  
24 written sealed bid together with a certified check on a responsible  
25 bank in the state for at least one percent of the total amount of  
26 the bid.

27 (b) Bids shall be opened at the same time, and the board may

1 reject any or all of the bids.

2 (c) If the successful bidder fails or refuses to enter into  
3 a proper contract with the district or fails or refuses to furnish  
4 the bond required by law, he forfeits the amount of the certified  
5 check which accompanied his bid, and the bank certifying the check  
6 is liable for it to the district.

7 Sec. 4.12. REPORTS FURNISHED TO PROSPECTIVE BIDDERS. The  
8 board shall furnish to any person who desires to bid on  
9 construction work, and who requests it in writing, a copy of the  
10 engineer's report which shows the work to be done and all details  
11 of it. The board may charge for each copy of the engineer's report  
12 an amount sufficient to cover the cost of making the copy.

13 Sec. 4.13. PROVISIONS OF CONTRACTS FOR CONSTRUCTION WORK.  
14 (a) Any contract made by the board for construction work shall  
15 conform to the provisions of this Act, and the provisions of this  
16 Act will be considered to be a part of the contract and shall  
17 prevail when the provisions of this Act and the contract are in  
18 conflict.

19 (b) The contract shall contain, or have attached to it, the  
20 specifications, plans, and details for work included in the  
21 contract, and all work shall be done in accordance with these plans  
22 and specifications under the supervision of the board and the  
23 district engineer.

24 Sec. 4.14. EXECUTING AND RECORDING CONSTRUCTION CONTRACT.

25 (a) Contracts for construction work shall be in writing and signed  
26 by the board and the contractor.

27 (b) A copy of the contract shall be filed with the county

1 clerk, and the county clerk shall record the contract in a book  
2 kept for that purpose.

3 (c) The contract shall be available for public inspection.

4 Sec. 4.15. CONTRACTOR'S BOND. (a) The contractor shall  
5 execute a bond in an amount determined by the board, not to exceed  
6 the contract price, payable to the district, conditioned on the  
7 faithful performance of the obligations, agreements, and covenants  
8 of the contract.

9 (b) The bond shall provide that if the contractor defaults  
10 on the contract, he will pay to the district all damages sustained  
11 as a result of the default or complete the contract according to  
12 its terms.

13 (c) All sureties signing the bond are bound by it to the  
14 same extent that the principal is bound, regardless of the  
15 technical defenses.

16 (d) The bond shall be deposited in the district depository,  
17 and a true record of it shall be entered in a record book in the  
18 district office.

19 Sec. 4.16. INSPECTION OF AND REPORTS ON CONSTRUCTION WORK.

20 (a) The board shall inspect construction work being done for the  
21 district under contract to determine whether or not the contract is  
22 being fulfilled and shall have the construction work inspected by  
23 the district engineer and his assistants.

24 (b) During the progress of the construction work, the  
25 district engineer shall submit to the board detailed written  
26 reports showing whether or not the contractor is complying with the  
27 contract, and when the work is completed, the district engineer



1 shall submit to the board a final detailed report showing whether  
2 or not the contractor has fully complied with the contract.

3 Sec. 4.17. PAYMENTS UNDER CONSTRUCTION CONTRACT. (a) The  
4 district shall pay the contract price of such contracts as  
5 hereinafter provided.

6 (b) The district will make progress payments monthly as the  
7 work proceeds, or at more frequent intervals as determined by the  
8 district engineer, on estimates approved by the district engineer.  
9 If requested by the district engineer, the contractor shall furnish  
10 a breakdown of the total contract price showing the amount included  
11 therein for each principal category of the work, in such detail as  
12 requested, to provide a basis for determining progress payments.  
13 In the preparation of estimates the district engineer, at his  
14 discretion, may authorize material delivered on the site and  
15 preparatory work done to be taken into consideration. Material  
16 delivered to the contractor at locations other than the site may  
17 also be taken into consideration (1) if such consideration is  
18 specifically authorized by the contract and (2) if the contractor  
19 furnishes satisfactory evidence that he has acquired title to such  
20 material and that it will be utilized on the work covered by this  
21 contract.

22 (c) In making such progress payments, there shall be  
23 retained 10 percent of the estimated amount until final completion  
24 and acceptance of the contract work. However, if the directors, at  
25 any time after 50 percent of the work has been completed, find that  
26 satisfactory progress is being made, they may authorize any of the  
27 remaining progress payments to be made in full. Also, whenever the

1 work is substantially complete, the directors, if they consider the  
2 amount retained to be in excess of the amount adequate for the  
3 protection of the district, at their discretion, may release to the  
4 contractor all or a portion of such excess amount. Furthermore, on  
5 completion and acceptance of each separate project, public work, or  
6 other division of the contract, on which the price is stated  
7 separately in the contract, payment may be made therefor without  
8 retention of a percentage.

9       Sec. 4.18. PREFERENCE IN USE OF WATER. (a) The board may  
10 award the use of district water in the following order of  
11 preference and superiority:

- 12       (1) domestic and municipal use;  
13       (2) industrial use, other than the development of  
14 hydroelectric power;  
15       (3) irrigation;  
16       (4) development of hydroelectric power;  
17       (5) pleasure and recreation.

18       (b) The board may withdraw water from an inferior use and  
19 appropriate the water to a superior use when required for the  
20 welfare of the district.

21       (c) The board must use the condemnation procedures in  
22 Chapter 52, Revised Civil Statutes of Texas, 1925, as amended, for  
23 a withdrawal or diversion of the use of water which affects a  
24 vested right.

25       Sec. 4.19. SUIT TO PROTECT WATER RIGHTS. The board may  
26 institute and maintain any suit or suits to protect the water  
27 supply or other rights of the district, to prevent any unlawful

1 interference with the water supply or other rights of the district,  
2 or to prevent a diversion of its water supply by others.

3       Sec. 4.20. TRANSFER OF WATER RIGHT. If there is land in a  
4 district which has a water right from a source of supply acquired  
5 by the district but the land is difficult or impracticable to  
6 irrigate from that source of supply, the district may allow  
7 transfer of the water right to other land which is adjacent to the  
8 district. The adjacent land may be admitted to the district with  
9 the same right of water service as the land from which the water  
10 was transferred.

11       Sec. 4.21. SELLING WATERPOWER PRIVILEGES. (a) The district  
12 may enter into a contract to sell waterpower privileges if power  
13 can be generated from water flowing from the district's reservoirs  
14 or within its canal system.

15       (b) The sale of waterpower privileges may not interfere with  
16 the district's obligation to furnish an adequate supply of water  
17 for the purpose for which the district was organized and for  
18 municipal purposes.

19       Sec. 4.22. SELLING SURPLUS WATER. The district may sell any  
20 surplus district water for use in irrigation or for domestic or  
21 commercial uses to any person who owns or uses land in the vicinity  
22 of the district or to other districts which include land in the  
23 same vicinity.

24       Sec. 4.23. PUMPING WATER TO ANOTHER DISTRICT. If the board  
25 considers it advisable, it may contract to pump for or supply  
26 another district any water in which the other district has a right.  
27 The board shall provide the terms of the contract.

1           Sec. 4.24. OTHER AUTHORITY OF THE DISTRICT. Unless in  
2 conflict with the provisions of this Act, the district and its  
3 board may exercise any of the powers and authority provided in  
4 Subchapters D, G, and H, Chapter 51, Water Code, as amended, and  
5 Subchapter D, Chapter 54, Water Code, as amended.

6           ARTICLE V. POWERS AND DUTIES OVER GROUNDWATER

7           Sec. 5.01. APPLICABILITY OF ARTICLE AND DEFINITIONS. (a)  
8 The provisions of this article apply to groundwater only.

9           (b) The definitions of "groundwater," "groundwater  
10 reservoir," "subdivision of a groundwater reservoir," "waste," "use  
11 for a beneficial purpose," and "segregated irrigated area" have the  
12 same meanings respectively as the terms "underground water,"  
13 "underground water reservoir," "subdivision of an underground water  
14 reservoir," "waste," "use for a beneficial purpose," and  
15 "segregated irrigated area" in Section 52.001 (3)-(8), Water Code.

16          Sec. 5.02. IMPROVEMENTS AND FACILITIES. The district may:

17          (1) acquire land to erect dams or to drain lakes, draws, and  
18 depressions;

19          (2) construct dams;

20          (3) drain lakes, depressions, draws, and creeks; and

21          (4) install pumps and other equipment necessary to recharge  
22 the groundwater reservoir or its subdivisions.

23          Sec. 5.03. SALE AND DISTRIBUTION OF WATER PROHIBITED. No  
24 district may sell or distribute surface water or groundwater for  
25 any purpose.

26          Sec. 5.04. ENGINEERING SURVEYS. The district engineer shall  
27 make surveys of the groundwater reservoir or subdivisions and

1 surveys of the facilities for development, production, and use of  
2 the water, in order to determine the quantity of water available  
3 for production and use and to determine the improvements,  
4 development, and recharging needed by the reservoir or its  
5 subdivisions.

6 Sec. 5.05. PLANNING. (a) The district may develop  
7 comprehensive plans for the most efficient use of the groundwater  
8 in the groundwater reservoir or its subdivisions and for  
9 controlling and preventing waste of groundwater.

10 (b) The district shall specify in the plans, in as much  
11 detail as practicable, the acts, procedure, performance, and  
12 avoidance that are or may be necessary to effect the plans,  
13 including specifications.

14 Sec. 5.06. RESEARCH PROJECTS. The district may carry out  
15 research projects, develop information, and determine limitations  
16 which should be made on withdrawing groundwater from the  
17 groundwater reservoir or its subdivisions.

18 Sec. 5.07. COLLECTION OF INFORMATION. The district may  
19 collect information regarding the use of groundwater and the  
20 practicability of recharging the reservoir or its subdivisions.

21 Sec. 5.08. PUBLICATION OF PLANS AND INFORMATION. The  
22 district may publish its plans and the information it develops,  
23 bring them to the attention of the users of groundwater in the  
24 district, and encourage the users to adopt and use them.

25 Sec. 5.09. RECORDS AND REPORTS. The district may require  
26 that records be kept and reports be made of the drilling,  
27 equipping, and completing of water wells and of the production and

1 use of groundwater from the groundwater reservoir or its  
2 subdivisions.

3 Sec. 5.10. DRILLERS' LOGS. The district may require that  
4 accurate drillers' logs be kept of water wells and that copies of  
5 drillers' logs and electric logs be filed with the district.

6 Sec. 5.11. PERMITS FOR WELLS. The district may require  
7 permits for the drilling, equipping, or completing of wells, or for  
8 substantially altering the size of wells or well pumps, or for all  
9 of these operations. Permits may be issued subject to the rules  
10 made under Section 5.14 of this Act and subject to terms and  
11 provisions with reference to the drilling, equipping, completion,  
12 or alteration of wells or pumps that may be necessary to conserve  
13 the groundwater, prevent waste, minimize as far as practicable the  
14 reduction of artesian pressure or lessen interference between  
15 wells.

16 Sec. 5.12. PERMIT: APPLICATION AND HEARING. The district  
17 shall promptly consider and pass on each application for a permit.  
18 If, within 20 days after the date it is submitted, an application  
19 has not been passed on or set for a hearing on a specific date, the  
20 applicant may petition a district court in the county for a writ of  
21 mandamus to compel the district to act on the application or set a  
22 date for a hearing on the application. A hearing shall be held  
23 within 30 days after the setting of the date and the district shall  
24 act on the application within 10 days after the date of the  
25 hearing.

26 Sec. 5.13. DRILLING, ETC., WITHOUT PERMIT. Except as  
27 provided by Section 5.15 of this Act, no person, firm, or

1 corporation may begin to drill a well in the district, or  
2 substantially alter the size of a well or pump, which well could  
3 reasonably be expected to produce more than 100,000 gallons of  
4 water a day from the reservoir or subdivision, without first  
5 obtaining a permit from the district.

6 Sec. 5.14. REGULATION OF SPACING AND PRODUCTION. In order  
7 to minimize as far as practicable the reduction of artesian  
8 pressure, or to prevent waste, the district may provide for the  
9 spacing of water wells and may regulate the production of wells.

10 Sec. 5.15. EXCEPTIONS; LIMITATIONS. (a) The district may  
11 not require a permit for the drilling or producing of a well  
12 drilled, completed, and equipped so that it will not produce more  
13 than 100,000 gallons of groundwater a day.

14 (b) The district shall not deny the owner of a tract of  
15 land, or his lessee, who has no well capable of producing more than  
16 100,000 gallons a day on the tract, either a permit to drill a well  
17 on his land or the privilege to produce groundwater from his land,  
18 subject to the rules of the district.

19 (c) The district may not restrict the production of any well  
20 that produces less than 100,000 gallons a day.

21 (d) Nothing in this chapter applies to wells drilled for  
22 oil, gas, sulphur, or brine, or for core tests, or for injection of  
23 gas, salt water, or other fluid, or for any other purpose, under  
24 permits issued by the Railroad Commission of Texas. The district  
25 shall not require a permit to drill a well to supply water for  
26 drilling any of these wells permitted by the Railroad Commission of  
27 Texas. When the well ceases to be used for these purposes, it may

1 then be used as an ordinary water well if it meets the spacing and  
2 other rules of the district; and its use is subject to the rules of  
3 the district.

4 (e) Water wells exempted under this section shall be  
5 equipped and maintained so as to conform to the district's rules  
6 requiring installation of casing, pipe, and fittings to prevent the  
7 escape of groundwater from a groundwater reservoir to any reservoir  
8 not containing groundwater and to prevent the pollution or harmful  
9 alteration of the character of the water in any groundwater  
10 reservoir.

11 Sec. 5.16. OPEN OR UNCOVERED WELLS. (a) The district may  
12 require the owner or lessee of land on which an open or uncovered  
13 well is located to keep the well permanently closed or capped with  
14 a covering capable of sustaining weight of at least 400 pounds,  
15 except when the well is in actual use.

16 (b) As used in this section, "open or uncovered well" means  
17 an artificial excavation at least 10 feet deep and at least 10  
18 inches but not more than six feet in diameter, that is dug or  
19 drilled for the purpose of producing water from the groundwater  
20 reservoir and is not capped or covered as required by this chapter.

21 (c) If the owner or lessee fails or refuses to close or cap  
22 the well in compliance with this chapter within 10 days after being  
23 requested to do so in writing by an officer, agent, or employee of  
24 the district, any person, firm, or corporation employed by the  
25 district may go on the land and close or cap the well safely and  
26 securely.

27 (d) Expenses incurred by the district in closing or capping



1 a well, not to exceed \$100, constitute a lien on the land on which  
2 the well is located.

3 (e) The lien is perfected by filing in the deed records of  
4 the county where the well is located an affidavit, executed by any  
5 person conversant with the facts, stating the following:

6 (1) the existence of the well;

7 (2) the legal description of the property on which the well  
8 is located;

9 (3) the approximate location of the well on the property;

10 (4) the failure or refusal of the owner or lessee, after  
11 notification, to close the well within 10 days after the  
12 notification;

13 (5) the closing of the well by the district, or by an  
14 authorized agent, representative, or employee of the district; and

15 (6) the expense incurred by the district in closing the  
16 well.

17 (f) The district may make and enforce rules that are  
18 necessary or appropriate to effectively exercise the powers granted  
19 in this section.

20 (g) Nothing in this section affects the enforcement of  
21 Article 9202, Revised Civil Statutes of Texas, 1925.

22 Sec. 5.17. ILLEGAL DRILLING AND OPERATION OF WELL; SUIT.

23 (a) Drilling a well without a required permit or operating a well  
24 at a higher rate of production than the rate approved for the well  
25 is declared to be illegal, wasteful per se, and a nuisance.

26 (b) A person who has an estate in land which is adjacent to  
27 the land on which the well is located, or a part which lies within

1 one-half mile of the well, may sue in a court of competent  
2 jurisdiction to restrain or enjoin the illegal drilling or  
3 operation, or both. The suit may be brought with or without the  
4 joinder of the district.

5 (c) The aggrieved party may also sue for damages for  
6 injuries he may have suffered by reason of the illegal operation  
7 and for other relief to which he may be entitled. In a suit for  
8 damages, the existence or operation of a well in violation of the  
9 rules of the district is prima facie evidence of illegal drainage.

10 (d) The suit may be brought in the county where the illegal  
11 well is located or in the county where all or part of the affected  
12 land is located.

13 (e) The remedies provided by this section are cumulative of  
14 other remedies available to the individual or the district.

15 (f) A suit brought under this section shall be advanced for  
16 trial and determined as expeditiously as possible. The court shall  
17 not grant a postponement or continuance, including a first motion,  
18 except for reasons considered imperative by the court.

#### 19 ARTICLE VI. GENERAL FISCAL PROVISIONS

20 Sec. 6.01. LAWS AFFECTING DISTRICT'S FISCAL AFFAIRS. The  
21 provisions of Subchapter I, Water Code, apply to the general fiscal  
22 affairs of the district.

#### 23 ARTICLE VII. BORROWING MONEY

24 Sec. 7.01. LAWS APPLICABLE TO BORROWING MONEY. The district  
25 may borrow money in the manner provided in Subchapter J, Water  
26 Code.

#### 27 ARTICLE VIII. BONDS

1           Sec. 8.01. LAWS APPLICABLE TO BONDS. The district may  
2     issue, sell, and redeem bonds in the manner provided in Subchapter  
3     K, Water Code, as amended.

4                     ARTICLE IX. TAXATION

5           Sec. 9.01. LAWS APPLICABLE TO TAXATION. Taxes of the  
6     district shall be levied, assessed, and collected in the manner  
7     provided in Subchapters L and M, Water Code.

8                     ARTICLE X. DISSOLUTION

9           Sec. 10.01. LAWS APPLICABLE TO DISSOLUTION. The district  
10    may be dissolved in the manner provided in Sections 51.781-51.792  
11    or 51.829-51.836, Water Code, as applicable.

12                    ARTICLE XI. MISCELLANEOUS PROVISIONS

13          Sec. 11.01. REMOVAL FROM OTHER DISTRICTS. (a) On approval  
14    of the district's qualified voters voting at an election called for  
15    that purpose, the board may withdraw the territory of the district  
16    from any other district created under Article III, Section 52, or  
17    Article XVI, Section 59, of the Texas Constitution, which other  
18    district performs the same or similar powers and duties as the  
19    Uvalde County Surface and Groundwater Conservation and Reclamation  
20    District. The board shall call the election and shall submit to  
21    the qualified voters of the district the proposition of whether or  
22    not the territory of the Uvalde County Surface and Groundwater  
23    Conservation and Reclamation District should be withdrawn from the  
24    other district and if so, authorizing the board to issue bonds and  
25    levy taxes to pay the territory's pro rata share of indebtedness of  
26    the other district from which the territory is being withdrawn.

27          (b) The ballots for the election shall be printed to provide

1 for voting for or against the proposition: "Withdrawal of district  
2 territory from the \_\_\_\_\_ District and the issuance of bonds  
3 and levy of taxes to pay the territory's pro rata share of the  
4 district's indebtedness."

5 (c) If the district from which the territory is being  
6 withdrawn is located wholly within Uvalde County, the district  
7 shall be considered dissolved on withdrawal of the territory, and  
8 the board of the dissolved district shall pay off indebtedness of  
9 the dissolved district from funds paid by the Uvalde County Surface  
10 and Groundwater Conservation and Reclamation District as its pro  
11 rata share.

12 (d) The district shall issue bonds and assess, levy, and  
13 collect taxes for the purposes of this section in the same manner  
14 provided for other bonds and taxes under this Act.

15 Sec. 11.02. EMERGENCY. The importance of this legislation  
16 and the crowded condition of the calendars in both houses create an  
17 emergency and an imperative public necessity that the  
18 constitutional rule requiring bills to be read on three several  
19 days in each house be suspended, and this rule is hereby suspended,  
20 and that this Act take effect and be in force from and after its  
21 passage, and it is so enacted.

THE STATE OF TEXAS }  
COUNTY OF UVALDE

Before me, the undersigned authority, on this day personally

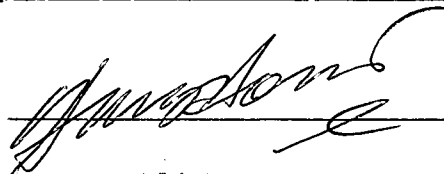
appeared Harry P. Hornby, Jr. known to me, who being

duly sworn, on his oath deposes and says, that he is the publisher of the Uvalde Leader-News,  
a newspaper of general circulation, which has been continuously and regularly published for a period of not less than  
one year in said County; that a copy of the within and foregoing notice was published in said newspaper for at least  
ten days before the return day named therein, such publication being on the following dates:

February 24

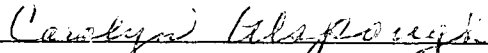
A. D. 1977

and a newspaper copy of which is hereto attached.



Publisher of the Uvalde Leader-News

Sworn to and subscribed before me, this 29 day of March A. D., 1977



Notary Public in and for Uvalde Co., Texas

**PUBLIC NOTICE**

This is to give notice of the intention to introduce a bill in the regular session of the 65th Legislature: relating to the creation, administration, powers, duties, operations, and financing of the Uvalde County Water District of Uvalde County under Article XVI, Section 59 of the Texas Constitution.

**Signed,**

**James R. Nugent**  
State Representative

H. B. No.

2174

By

*Regent*

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, operations, financing, and dissolution of the Uvalde County Surface and Groundwater Conservation and Reclamation District.

APR 7 1977

1. Filed with the Chief Clerk.

APR 12 1977

2. Read first time and Referred to Committee on

*Natural Resources*

3. Reported favorably (as amended) and sent to Printer at \_\_\_\_\_ M.  
unfavorably (time)

4. Printed, distributed and sent to the Committee on Calendars at \_\_\_\_\_ M.  
(time)

5. Read second time (amended); passed to third reading (failed) by (Non-Record Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting).

6. Motion to reconsider and table the vote by which H.B. \_\_\_\_\_ was ordered engrossed prevailed (failed) by a (Non-record vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

7. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting.

8. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting).

9. Caption ordered amended to conform to body of bill.

10. Motion to reconsider and table the vote by which H.B. \_\_\_\_\_ was finally passed prevailed (failed) by a (Non-record) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

11. Ordered Engrossed at \_\_\_\_\_ M.  
(time)

12. Engrossed.

13. Returned to Chief Clerk at \_\_\_\_\_ M.  
(time)

14. Sent to Senate.

\_\_\_\_\_  
Chief Clerk of the House

15. Received from the House \_\_\_\_\_

16. Read, referred to Committee on \_\_\_\_\_

17. Reported favorably \_\_\_\_\_

18. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

19. Ordered not printed.

20. Regular order of business suspended by

(a viva voce vote.)

( \_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

\_\_\_\_\_ 21. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

\_\_\_\_\_ 22. Read second time \_\_\_\_\_ passed to third reading by:  
(a viva voce vote.)  
( \_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

\_\_\_\_\_ 23. Caption ordered amended to conform to body of bill.

\_\_\_\_\_ 24. Senate and Constitutional 3-Day Rules suspended by vote of \_\_\_\_\_ yeas,  
\_\_\_\_\_ nays to place bill on third reading and final passage.

\_\_\_\_\_ 25. Read third time and passed by  
(a viva voce vote.)  
( \_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

OTHER ACTION: OTHER ACTION:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_ 26. Returned to the House.

\_\_\_\_\_ 27. Received from the Senate (with amendments).

\_\_\_\_\_ 28. House (Concurred) (Refused to Concur) in Senate Amendments by a (Non-record Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting).

\_\_\_\_\_ 29. Conference Committee Ordered.

\_\_\_\_\_ 30. Conference Committee Report Adopted (Rejected) by a (Non-record Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

\_\_\_\_\_ 31. Ordered Enrolled at \_\_\_\_\_ : \_\_\_\_\_ M.  
(time)